



COMMONWEALTH OF MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

D.T.C. 11-16

March 18, 2016

Petition of Recipients of Collect Calls from Prisoners at Correctional Institutions in
Massachusetts Seeking Relief from the Unjust and Unreasonable Cost of such Calls

NOTICE OF BRIEFING SCHEDULE

On February 29, 2016, the Department of Telecommunications and Cable (“Department”) held a telephonic case status conference to discuss the effect of the Federal Communications Commission’s (“FCC’s”) Order in its Inmate Calling Services (“ICS”) proceeding on the scope of the above captioned proceeding. During the case status conference, after discussion, the Department determined to await action by the United States Court of Appeal for the District of Columbia (“DC Circuit Court”) on pending motions to stay the FCC’s Order in its ICS proceeding pending judicial review. Once the DC Circuit Court acted, the Department would establish a schedule for parties to brief the Department on the effect the FCC Order has on this proceeding.

On March 7, 2016, the DC Circuit Court granted in part and denied in part multiple motions for stay pending judicial review of the FCC’s Order. Specifically, the DC Circuit Court stayed the part of the FCC’s Order adopting regulations setting caps on Inmate Calling Services Calls on a per minute basis (47 C.F.R. § 64.6010) and setting caps on ancillary service charges for single-call and related services (47 C.F.R. § 64.6020(b)(2)). The DC Circuit Court denied all other requests to stay the FCC’s Order. Accordingly, all other provisions of the FCC’s Order

went into effect on March 17, 2016 for Providers of ICS serving prisons and will go into effect on June 20, 2016 for Providers of ICS serving jails. Those provisions include: the establishment of specific, permitted ancillary service charges (47 C.F.R. § 64.6020(a)); the establishment of rate caps for the permitted ancillary service charges (47 C.F.R. § 64.6020(b)(1), (3)-(5)); the establishment of rates for calls involving a TTY device (47 C.F.R. § 64.6040); a prohibition on per-call or per-connection charges (47 C.F.R. § 64.6080); a prohibition on flat-rate calling (47 C.F.R. § 64.6090); the establishment of minimum and maximum prepaid calling account balances (47 C.F.R. § 64.6100); and required disclosures of ICS rates (47 C.F.R. § 64.6110). The FCC's Order also included a provision adopting an interim rate cap for ICS that was not stayed by the DC Circuit Court and the FCC confirmed that the interim rate cap for ICS applies to both interstate and intrastate calls.¹

Accordingly, the Department directs the parties to prepare briefs on the following issues:

1. Whether the elimination of the per-call surcharge resolves all concerns regarding the just and reasonableness of the per-call surcharge rate and warrants the Department closing that portion of its Investigation. *See ICS Petition*, D.T.C. 11-16, *Hearing Officer Interlocutory Ruling* at 20 (Sept. 23, 2013).
2. Whether the elimination of the per-call surcharges and the establishment of interim and final rate caps for ICS service necessitates that the Department investigate whether the \$0.10 per-minute rate cap for all intrastate ICS in Massachusetts remains just and reasonable. *See id.* at 18-20.
3. Whether the FCC's establishment of specific taxes and ancillary service charges with price caps sufficiently resolved all concerns regarding the service and other fees contained in ICS providers' tariffs and warrants the Department closing that portion of its Investigation. *See id.* at 26-27.
4. Whether the FCC's Order resolves concerns about dropped calls and other service quality issues and warrants the Department closing all or part of that portion of its Investigation. *See id.* at 28-30.

¹ *Wireline Competition Bureau Addresses Applicable Rates for Inmate Calling Services and Effective Dates for Provisions of the Inmate Calling Service Second Report and Order*, WC Docket 12-375, *Pub. Notice* (rel. Mar. 16, 2016).

5. Whether the FCC's Order resolves concerns about the adequacy of billing details and warrants the Department closing that portion of its Investigation. *See id.* at 30-31.
6. Whether any changes to the scope of the proceeding would moot any of the pending discovery requests.

Initial briefs must be filed with the Department on or before close of business on Friday, April 15, 2016. Reply Briefs must be filed with the Department on or before close of business on Friday, May 13, 2016.

By Ruling of the Hearing Officer,

A handwritten signature in blue ink that reads "Michael E. Scott". The signature is written in a cursive, flowing style.

Michael Scott
Hearing Officer

NOTICE OF RIGHT TO APPEAL

Under the provisions of 220 C.M.R. § 1.06(d)(3), any aggrieved party may appeal this Ruling to the Commissioner by filing a written appeal with supporting documentation within five (5) days of this Ruling. A copy of this Ruling must accompany any appeal. A written response to any appeal must be filed within two (2) days of the appeal.